

MENTAL HEALTH LAW PROJECT

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ADVOCATES CALL FOR MORATORIUM ON TASERS

STATEMENT REGARDING VERMONT LAW ENFORCEMENT AGENCIES' USE OF TASERS

The tragic death of Macadam Mason last week enforces the vital importance of addressing and regulating Vermont's law enforcement agencies' use of Tasers. While autopsy results will not be available for several weeks, there is strong evidence that the use of a Taser by a Vermont State Police officer led to Mr. Mason's death. Mr. Mason was instantly rendered unconscious and unresponsive by the Taser strike. Mr. Mason was shot in the chest, contrary to the recommendations of the manufacturer, Taser International. Further, the victim's family had warned the State Police that Macadam was at particular risk because of a seizure disorder, another condition that Taser warns must be considered before using the weapon.

The undersigned organizations, advocates, and other individuals -- concerned with the civil and human rights of people diagnosed with mental illnesses, people with disabilities, people with a range of medical conditions, pregnant women and the elderly -- call for an immediate moratorium on Taser use by the Vermont State Police and by all other law enforcement agencies in the state until a statewide policy can be developed and implemented to reduce the risk of adverse effects from Taser use, and until all officers receive updated, uniform, state-approved training in Taser use as well as so-called "Act 80" training for dealing with people in a mental health crisis.

The new policy should address, at a minimum, the following points:

First, Tasers must be viewed as deadly force. Last week's death demonstrates that there is no way to be sure that Tasers can be used safely, a fact that is consistent with the known deaths of numerous people after Taser shootings. We acknowledge that a Taser is not the same as a gun, and we recognize that the purpose of a Taser is not to kill a person. Nonetheless, Tasers are lethal weapons ("less lethal" is the term currently used by its manufacturer, having abandoned the original claim that the weapon is "safe"). There are several hundred documented cases of people who have died following a Taser shooting. In a number of those cases, the Taser was determined to be a cause, contributing factor, or could not be ruled out as a cause or factor in the person's death.

Taser defenders say that the people who were killed are generally people who had some previously unknown medical condition, and that the cause of death was the medical condition and not the Taser's electrical shock. The problem with this position, though, is that the police are unlikely to know whether the person they are about to use the Taser on is someone with a medical condition – known or unknown. Thus, the risk of using a Taser on a particular individual is often unknown; and if the Taser is used repeatedly on the individual (not uncommon), the risk – whatever it might be – increases.

Second, placing Tasers in the hands of law enforcement inevitably lowers the threshold for the use of force. When Tasers are debated publicly, what we hear from proponents is that Tasers save lives. We hear, for example, discussion of the case in Brattleboro in which a young man with a knife was shot dead but might have been subdued with a Taser had one been available. In practice, though, Tasers are often deployed against people who are being a nuisance at local businesses or people who, as in Wednesday's tragedy, are calling out for help. Incidents that

previously were addressed without the use of deadly force should not now be resolved with a weapon known to be lethal – albeit “less lethal” than traditional firearms.

Third, Vermont must have a uniform statewide and independently arrived at standard for the use of force. The typical Taser policy in use in Vermont is one provided by insurance companies that represent the police, and it is designed to deflect any possible liability rather than protect all citizens. These cookie-cutter policies, adopted wholesale by many municipalities with little citizen input, allow Taser use whenever a subject is engaged in active resistance. Active resistance is defined as “affirmative action to defeat an officer’s ability to take them into custody”. What constitutes affirmative action is not defined. We feel strongly that any Taser policy must state that Tasers be used only when deadly force is justified.

The experience with Tasers over the last several years is that people with psychiatric diagnoses or other disabilities are at particular risk of becoming involved in a confrontation with law enforcement in which they may not understand the nature of the situation, or the law enforcement officials may not be prepared to deal with the situation appropriately.

Finally, Vermont needs an independent civilian body established to review specific Taser use and other incidents of deadly force. This is too important to be left to internal law enforcement procedures that shield the public from learning the facts. If the people of Vermont are going to have confidence in the way law enforcement officers use deadly force, investigation and evaluation of these uses must be conducted by an independent body. Regardless of the personal integrity of the Attorney General and other high-ranking officials, the fact that an investigation may be conducted by the state official who will be responsible for conducting the state’s legal defense in the event of civil litigation naturally raises questions about the objectivity of such investigations. Whether a lack of objectivity is real or only perceived doesn’t matter. A

perception that a process is not fair taints the process. The only way to establish public confidence in police activities is creation of a civilian review board.

Although Vermont law enforcement agencies have had Tasers for a number of years, this appears to be the first fatal Taser incident in the state. We hope that this will also be the last, but in order to achieve that goal Vermont must immediately implement reasonable, sensible limits on Taser use.

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